



Patrick W. Henning, Director
February 28, 2008
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Arnold Schwarzenegger
Governor

Mr. Blake G. Konczal, Director
Fresno County Workforce Investment Board
2000 Fresno Street, Suite 200 (second floor)
Fresno, 93721

Dear Mr. Konczal:

WORKFORCE INVESTMENT ACT
85-PERCENT PROGRAM REVIEW
FINAL MONITORING REPORT
PROGRAM YEAR 2007-08

This is to inform you of the results of our review for Program Year (PY) 2007-08 of the Fresno County Workforce Investment Board's (FCWIB) Workforce Investment Act (WIA) 85-Percent grant program operations. We focused this review on the following areas: Board composition, One-Stop delivery system, program administration, WIA activities, participant eligibility, local program monitoring of subrecipients, grievance and complaint system, and management information system/reporting.

This review was conducted by Mr. Fernando Piña and Ms. Karen Fuller-Ware from September 10, 2007, through September 14, 2007.

Our review was conducted under the authority of Sections 667.400 (a) and (c) and 667.410 of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance FCWIB with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding program operations for PY 2007-08.

We collected the information for this report through interviews with FCWIB representatives, service provider staff, and WIA participants. In addition, this report includes the results of our review of selected case files, FCWIB's response to Section I and II of the Program On-Site Monitoring Guide, and a review of applicable policies and procedures for PY 2007-08.

We received your response to our draft report on February 7, 2008, and reviewed your comments and documentation before finalizing this report. Because your response did not adequately address findings 1 and 2 cited in the draft report, we consider

these findings unresolved. We request that FCWIB provide the Compliance Review Division (CRD) with additional documentation to resolve the issues that led to the findings. Therefore, these findings remain open and have been assigned Corrective Action Tracking System (CATS) numbers 80046 and 80047. However, your response adequately addressed finding 3 cited in the draft report and no further action is required at this time. However, this issue will remain open until we verify your implementation of your stated corrective action plan during a future onsite review. Until then, this finding is assigned CATS number 80048.

BACKGROUND

The FCWIB was awarded WIA funds to administer a comprehensive workforce investment system by way of streamlining services through the One-Stop delivery system. For PY 2007-08, FCWIB was allocated: \$5,366,166 to serve 1,372 adult participants; \$4,373,278 to serve 1,691 youth participants; and \$4,155,713 to serve 709 dislocated worker participants.

For the quarter ending June 30, 2007, FCWIB reported the following expenditures for its WIA programs: \$4,855,429 for adult participants; \$5,316,953 for youth participants; and \$3,049,775 for dislocated worker participants. In addition, FCWIB reported the following enrollments: 1,459 adult participants; 1,664 youth participants; and 905 dislocated worker participants. We reviewed case files for 30 of the 4,028 participants enrolled in the WIA program as of September 10, 2007.

PROGRAM REVIEW RESULTS

While we concluded that, overall, FCWIB is meeting applicable WIA requirements concerning grant program administration, we noted instances of noncompliance in the following areas: local workforce investment board (LWIB) composition, nondiscrimination/equal opportunities (EO) provisions, and local grievance and complaint procedures. The findings that we identified in these areas, our recommendations, and FCWIB's proposed resolution of the findings are specified below.

FINDING 1

Requirement: WIA Section 117(b)(2)(A)(vi) states, in part, that the membership of each Local Board shall include representatives of each of the one-stop partners.

20 CFR Section 662.200 states, in part, that the required One-Stop partners include entities that are responsible for administering senior community service employment activities

authorized under title V of the Older Americans Act of 1965 and Native American Programs authorized under title I of WIA.

Observation: The FCWIB has not had an Older American Act representative since October 2006. Additionally, FCWIB has not had a Native American representative since October 2005.

Recommendation: We recommended that FCWIB provide CRD with a corrective action plan (CAP) and timeline to fill the LWIB vacancies and an updated LWIB roster after these vacancies are filled.

FCWIB Response: The FCWIB stated that since the time of the review, FCWIB staff has secured an Older American Act representative from the American Association of Retired Persons. Additionally, FCWIB provided a copy of the updated roster.

Finally, FCWIB stated that the Native American representative was removed from the LWIB on August 22, 2006, as a result of excessive absences and in accordance with FCWIB Bylaws. The Native American representative has recently requested reinstatement to the LWIB. The FCWIB staff is working with the County of Fresno Board of Supervisors and County Counsel to determine if this would be in violation of FCWIB Bylaws. The FCWIB expects to provide CRD with a resolution by March 31, 2008.

State Conclusion: Based on FCWIB's response, we cannot resolve this issue at this time. Although, FCWIB filled the Older American Act vacancy on the LWIB, it has not filled the Native American vacancy. Once the FCWIB fills the Native American vacancy and provides an updated LWIB roster to CRD, this issue can be closed. Until then, this issue remains open and is assigned CATS number 80046.

FINDING 2.

Requirement: WIA Section 117(b)(2)(A)(i-vi) states, in part, that membership of the local workforce investment board shall include representatives of business in the local area who are owners of businesses, chief executives or operating officers of business, and other business executives or hiring authority; represent businesses with employment opportunities that reflect the employment opportunities of the local area; and are appointed

from among individuals nominated by local business organizations and business trade associations.

Additionally, WIA Section 117(b)(2)(A)(i-vi) states, in part, that membership of the local workforce investment board shall also include representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees.

Finally, WIA Section 117(b)(2)(A)(i-vi) states, in part, that membership of the local workforce investment board shall also include representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local education entities.

Observation:

The FCWIB contains two members from SEIU Local 535 and the National Electrical Contractors Association (NECA) who were appointed as business representatives. SEIU Local 535 and NECA are labor organizations and therefore should not represent business. The FCWIB also contains two members from the Fresno Unified School District and California State University ACT Center who were appointed as business representatives. The Fresno Unified School District and California State University ACT Center are educational entities and therefore should not represent business. Furthermore, FCWIB provided no evidence that these entities were nominated by local business organizations and business trade associations.

A similar issue was identified in FCWIB's PY 2005-06 Program monitoring report.

Recommendation:

We recommended that FCWIB provide CRD with a CAP, including a timeline, for appointing new business representatives to the FCWIB or demonstrate how the members listed above meet the criteria of representatives of business

including how these members were appointed from among individuals nominated by local business organizations and business trade associations. Additionally, we recommended that FCWIB provide CRD with documentation demonstrating that these appointments were made and an updated copy of the FCWIB membership roster.

FCWIB Response: The FCWIB stated that the appointment of FCWIB members is under the control of the Fresno County Board of Supervisors, as the Chief Local Elected Official, and the Fresno County Administrator's Office (CAO). The FCWIB has informed the CAO of this finding and is in dialogue with County Counsel as to how they intend to resolve this finding. There are significant changes in the planning stages between FCWIB staff, Fresno County, and the City of Fresno concerning the composition of the Board and how appointments will be made. These changes will address this finding and meet the requirements of Senate Bill 293. The FCWIB expects to have this finding resolved by July 1, 2008.

State Conclusion: Based on FCWIB's response, we cannot resolve this issue at this time. The FCWIB has not appointed new business members or demonstrated how the business members listed above met the business member criteria. However, FCWIB did state that it would resolve this finding by July 1, 2008. We, again, recommend that FCWIB appoint new business representatives to the FCWIB or demonstrate how the members listed above meet the criteria of representatives of business including how these members were appointed from among individuals nominated by local business organizations and business trade associations. Until then, this issue remains open and is assigned CATS number 80047.

FINDING 3

Requirement: 20 CFR Section 667.600(b)(2) requires that every entity receiving Title I funds must provide information about the content of grievance and complaint procedures to participants receiving Title I funded services.

20 CFR Section 667.275(a)(1) states, in part, that recipients, as defined in 29 CFR Section 37.4, must comply with the

nondiscrimination/EO provisions of WIA Section 188 and its implementing regulations codified at 29 CFR part 37.

29 CFR Section 37.29 states, in part, that initial and continuing notice that a recipient does not discriminate on any prohibited ground must be provided to registrants, applicants, and participants.

WIAD03-12 states, in part, that initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint must be included in each participant's case file. A copy of acknowledgement of receipt shall be signed by the participant.

WIAD0-21 states, in part, that initial and continuing notice of nondiscriminatory practices and the right to file a complaint must be included in each participant's case file. A copy of acknowledgement of receipt must be signed by the participant.

Observation:

We reviewed 30 case files and found that while each contained a signed copy of acknowledgement of receipt of nondiscriminatory practices and local grievance/complaint procedures, the case files did not include the procedures received by the participants.

Recommendation:

We recommended that FCWIB provide CRD with a CAP to ensure that, in the future, a copy of the nondiscriminatory practices and local grievance/complaint procedures provided to participants is maintained in the case files along with a copy of the acknowledgement of receipt.

FCWIB Response:

The FCWIB stated on February 5, 2008, it changed its Discrimination, Program, and Nepotism Procedures to require service providers to ensure that a copy of the signed procedures is placed in the participant's file. The FCWIB provided CRD with a copy of local operational directive 10-08 and revised participant acknowledgment form.

State Conclusion:

The FCWIB's stated corrective action should be sufficient to resolve this issue and no further corrective action is required. However, we cannot close this issue until we verify, during a future onsite visit, FCWIB's successful implementation of its

stated corrective action. Until then, this issue remains open and has been assigned CATS number 80048.

In addition to the finding above, we identified a condition that may become a compliance issue if not addressed. Specifically, we observed that FCWIB lacks sufficient labor representatives to achieve the 15-percent labor organization representation required by SB 293. The FCWIB stated that it is working to achieve the 15-percent labor organization representation. We suggested that FCWIB continue its efforts to recruit the required percentage of labor organization representation.

In its response, FCWIB stated that there are significant changes in the planning stages between FCWIB staff, Fresno County, and the City of Fresno regarding the composition of the LWIB and how appointments will be made. These changes will ensure that the LWIB composition will be in compliance with the requirements of Senate Bill 293. The FCWIB stated it would resolve this concern by July 1, 2008.

We provide you up to 20 working days after receipt of this report to submit your response to the Compliance Review Division. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than March 27, 2008. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Division
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all of the areas included in our review. It is FCWIB's responsibility to ensure that its systems, programs, and related activities comply with the WIA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain FCWIB's responsibility.

February 28, 2008

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact Mr. Jim Tremblay at (916) 654-7825 or Ms. Mechelle Hayes at (916) 654-8015.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Mar". The signature is fluid and cursive, with the first name "Jessie" written in a larger, more prominent script than the last name "Mar".

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Division

cc: Shelly Green, MIC 45
Pam Lassetter, Assistant Director
Jose Luis Marquez, MIC 50
Don Migge, MIC 50
Roger Schmitt, MIC 50